

Attorney Docket No. 73542.010200

**REMARKS**

Claims 1-3 are pending in this application.

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The presently amended claims are believed to overcome the Examiner's formal objections.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun Trading LTD, the PROMPT Product Alert Bulletin, Frank and the admitted recognized state of the art.

Applicant respectfully traverses this rejection.

Initially, applicant gratefully acknowledges the interview granted by the Examiner to applicant's attorney, Mr. Eugene Rzucidlo. At the interview the formal objections to the claims, as well as, the prior art rejections made in the PTO Official Action were discussed. It is believed that the claims as amended in this response overcome both grounds of rejections. These claims were discussed at the interview and the Examiner indicated that the amended claims would overcome the rejections of record.

It is urged that the prior art relied upon by the Examiner neither teaches nor suggests the combination of ingredients recited in the present claims especially for use in the treatment of sinusitis. Sun Trading relates to a composition for the mouth and throat. As the Examiner notes this citation does not teach or suggest all of the ingredients of the present sprayable solution. As for the Examiner's comments relating to Baptista finctoria, applicant respectfully disagrees that there is any basis in the Barrett citation for ignoring the presence of this ingredient in the present composition.

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It is respectfully urged that the Examiner's rejection is improper since there is no suggestion in any of the relied upon references to provide this specific combination of the present claims especially in sprayable form for use in the treatment of sinusitis.

Applicant respectfully request withdrawal of this §103 rejection.

It is believed that all of the present claims are in condition for allowance. Early and favorable action by the Examiner is earnestly solicited.

### AUTHORIZATION

If the Examiner believes that issues may be resolved by telephone interview, the Examiner is respectfully urged to telephone the undersigned at (212) 801-2146. The undersigned may also be contacted by e-mail at [ecr@gtlaw.com](mailto:ecr@gtlaw.com).

No additional fee is believed to be necessary. The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 50-1561.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-1561.

Respectfully submitted,

Dated: November 09, 2004

By:

  
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